



## Mcmaine Allen O'georgia

2011 | Cited 0 times | D. Minnesota | January 3, 2011

### ORDER

This matter is before the court upon the pro se motion of plaintiff McMaine Allen O'Georgia<sup>1</sup> to dismiss and to waive and refund the filing fee. O'Georgia is a state prisoner who filed this action under 42 U.S.C. § 1983.

O'Georgia first moves to dismiss this action. See ECF No. 17. A plaintiff may dismiss an action when, as here, the opposing party has not filed an answer or summary judgment motion. See Fed. R. Civ. P. 41(a). Therefore, this action is dismissed. O'Georgia also moves to waive and refund the filing fee.<sup>2</sup> A prisoner who brings a civil action must pay the full filing fee. See 28 U.S.C. § 1915(b) ("[I]f a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee."); *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997) ("[T]he PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal."). Accordingly, IT IS HEREBY ORDERED that the motion to waive and refund filing fees [ECF No. 17] is denied, and this action is dismissed.

LET JUDGMENT BE ENTERED ACCORDINGLY.

David S. Doty

1. Plaintiff is also known as Mark Ehianeta Arhebamen. He signed the instant motion as Arhebamen.

2. O'Georgia paid an initial partial filing fee of \$19.63 on April 23, 2010. See ECF No. 7.

